

**CALENDAR ITEM
C52**

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PRC 2832.1

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GENERAL LEASE – RECREATIONAL AND OTHER USE

APPLICANT:

Scannavino Properties I, a Limited Partnership

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

31.41 acres, more or less, of filled and unfilled tide and submerged sovereign land in the historic bed of the San Joaquin River, adjacent to Hog Island, near Stockton, San Joaquin County.

AUTHORIZED USE:

Continued use and maintenance of filled tide and submerged land, an existing floating boat dock and power cable previously authorized by the Commission and a caretaker's residence and storage structure not previously authorized by the Commission.

LEASE TERM:

10 years, beginning January 22, 2017.

CONSIDERATION:

\$11,456 per year; with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. This authorization of the caretaker's residence is expressly subject to, and contingent on Lessees' adherence to the following terms and conditions:
 - a. During the lease term, there shall be no expansion or improvement of the caretaker's residence beyond its current footprint, or any construction of new structures within the Lease Premises.

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- b. Notwithstanding Section 3, Paragraph 5(b) (Repairs and Maintenance) of this Lease, if during the lease term repairs to any portion of the caretaker's residence are needed (including, but not limited to, those repairs necessitated by unusual events such as storm or fire) that would cost in excess of 50% of the base value of the structure, then the caretaker's residence shall be removed from the Lease Premises.
- c. If the caretaker's position were to be terminated during the lease term, the caretaker's residence would not be used as a residential structure.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On August 24, 2006, the Commission authorized a 10-year General Lease – Recreational Use to Scannavino Properties I, a Limited Partnership ([Calendar Item C41, August 24, 2006](#)). That lease expired on January 21, 2017. The Applicant is now applying for a General Lease – Recreational and Other Use to include a caretaker's residence and storage structure on filled sovereign land not previously authorized by the Commission. The subject improvements are privately owned and maintained.

Hog Island consists of filled sovereign land and privately owned lands. The filled sovereign lands were most likely created from dredged spoils taken to create the Stockton Deep Water Channel, which now represents the western boundary of the island.

The boat dock is for the docking and mooring of boats. Recreational boating and fishing are water-dependent and generally consistent with the common law Public Trust Doctrine.

The existing residence is used by the caretaker of Hog Island, and the storage structure is used to store landscaping tools and equipment. The existing residence and storage structure are not associated with traditional Public Trust uses, and were built many years ago when the extent of the State's interest may not have been clearly understood by the previous lessee. The Commission issued leases on a limited basis for portions of existing residential structures that encroach onto sovereign lands where such encroachments do not significantly interfere with the Public Trust needs and values. Since the residence is located on an island, the only way to access the area is by boat. While the area around the island sees

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regular boat traffic, both commercial and recreational, the Applicant's use of the fill does not impede the commercial and recreational use around the island. The residential and storage areas also represent a very small portion of the overall lease area (about 0.037-acre or 1,600 square feet of the 31.41-acre lease area).

The power cable brings electricity to the island and primarily serves to light the caretaker's residence and dock area for safe use. The power cable was recently inspected by a licensed electrical contractor and found to be in good condition. For additional safety, signage was placed on both banks of the waterway, indicating the location of the cable.

The filled sovereign lands and appurtenant facilities do not substantially interfere with the needs and values of the Public Trust Doctrine at this location and for the foreseeable future, as defined by the term of the proposed non-exclusive lease. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5).

The subject improvements have existed for many years at this location, the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. The proposed lease includes provisions protecting the public use of the proposed lease area, a limited lease term of 10 years, a non-exclusive use provision, and provisions wherein the Applicant may not construct any new improvements or modify any existing structure. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The lease area is located on the San Joaquin River, which is a tidally-influenced site vulnerable to flooding at current sea levels. The facilities associated in this lease area include an existing floating boat dock and a submerged power

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cable that crosses the San Joaquin River. The lease area also includes filled tide and submerged lands.

This area will also be at a higher risk of flood exposure given future projection scenarios of sea-level rise: the region could see up to 1 foot of sea-level rise (from year 2000 levels) by 2030, 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). Rising sea levels can lead to more frequent flood inundation in low lying areas and larger tidal events. In addition, as stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding and storms (especially when coupled with sea-level rise). In tidally-influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm created debris. Conversely, prolonged droughts could dramatically reduce river flow and water levels, leading to loss of public access and navigability. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally influenced waterways, flooding and storm flow, as well as runoff, will likely increase scour and decreasing bank stability at a faster rate.

The combination of these projected conditions increases the likelihood of damage to structures within the lease premises during the term of the lease. The floating boat dock and ramp are adaptable to variable water levels, but may require more frequent maintenance to avoid dislodgement and ensure continued function during and after storm seasons. The fixed walkway and pilings may need reinforcement and possibly replacement to withstand higher levels of flood exposure. In addition, the adjacent filled lands that contain the caretaker's residence and storage structure may experience periodic or continuous inundation with rising water levels and more frequent flooding, creating a safety hazard and limiting access to the structures. The power cable could become a public safety hazard if exposed through flooding or storm events and damaged. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement.

Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent land on Hog Island are located in an area that may be subject to effects of climate change, including sea-level rise.

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Conclusion:

For all the reasons above, staff believes that the proposed lease would not result in a substantial interference with the Public Trust needs and values at this time and in this location. Conversely, the resources, costs, time, and uncertainty associated with seeking removal of these relatively small encroachments are significant. For these reasons, staff recommends finding that issuing a lease is in the best interests of the State at this time.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the Public Trust needs and values at this location at this time, or for the foreseeable term of the lease, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to Scannavino Properties I, a Limited Partnership, beginning January 22, 2017, for a term of 10 years, for the continued use and maintenance of filled tide and submerged land, an existing floating boat dock and power cable previously authorized by the Commission and a caretaker's residence and storage structure not previously authorized by the Commission, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$11,456 per year, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 2832.1

LAND DESCRIPTION

Four parcels of land in the bed of the San Joaquin River, adjoining Hog Island, San Joaquin County, California, said parcels being more particularly described as follows:

Parcel A

All of Parcel 17-C-S as shown upon U.S. Engineer's parcel map entitled "Property to be acquired from State of California for Use on the Stockton Deep Water Channel".

Parcel B

That portion of Parcel 17-A-S as shown upon said U.S. Engineer's parcel map entitled "Property to be acquired from State of California for Use on the Stockton Deep Water Channel" described as follows:

BEGINNING at a point on the left bank of the San Joaquin River which bears S69°21'02"W, 1897.83 feet from U.S.E.D. Mon. No. 154 D.W.; thence along said left bank the following courses and distances:

N 89°15' 00" E, 282.03 feet;
S 67°19' 00" E, 338.00 feet;
S 33°20'00" E, 337.82 feet;
S 04°41'00" E, 472.70 feet;
S 05°57'00" W, 390.06 feet;
S 26°03'00" W, 433.82 feet;
S 43°58'00" W, 403.84 feet; and

S 41°13'00" W, 519.27 feet to a point on the northerly boundary line of the 750 foot Stockton Deep Water Channel right of way strip (said point being on the arc of a circular curve concave northeasterly, the center of which curve bears N 54°43'08" E, 4625 feet); thence southeasterly along said right of way strip 185.96 feet; thence leaving said right of way strip and along the following courses and distances;

N 45°18'00" E, 505.00 feet;
N 40°33'00" E, 615.00 feet;
N 21°00'00" E, 490.00 feet;
N 03°42'00" E, 340.00 feet;
N 04°14'00" W, 619.69 feet;
N 42°30'00" W, 450.00 feet;
N 73°52'00" W, 390.00 feet; and

S 77°55'00" W, 401.21 feet to a point on the northerly boundary line of said Parcel 17-C-S; thence along said Parcel 17-C-S, S 40°08'00"E, 135.53 feet to the point of beginning.

Parcel C

BEGINNING at a point on the right bank of the San Joaquin River as shown on said Parcel 17-A-S, which bears N 16°56'54" E, 2128.47 feet from said U.S.E.D. Mon. No. 154 D.W.; thence along said historic right bank:

N 14°44'00" E, 203.53 feet;
N 03°06'00" E, 581.42 feet; thence leaving said right bank,
S 86°34'32" W, 227.40 feet;
S 04°14'00" E, 267.13 feet;
S 03°42'00" W, 340.00 feet;
S 21°00'00" W, 182.95 feet;
N 86°34'32"E, 205.71 feet to the point of beginning

Parcel D

BEGINNING at the most southerly corner of the said Parcel 17-A-S; thence along the historic right bank of the San Joaquin River:

N 48°16'00" E, 458.89 feet; thence leaving said right bank
N 23°53'46" E, 729.82 feet;
S 40°33'00" W, 615.00 feet;
S 45°18'00" W, 505.00 feet

to a point on the northerly boundary line of the 750 foot Stockton Deep Water Channel right of way strip, said point being on the arc of a circular curve concave northeasterly, having a central angle 02°23'14", the center of said curve bears N 52°24'55" E, 4625 feet; thence southeasterly along said curve 192.71 feet to the point of beginning.

EXCEPTING THEREFROM any portion thereof lying landward of the ordinary high water mark.

END OF DESCRIPTION

Parcels A and B reviewed September 4, 1986 by Boundary Services Unit,
M.L. Shafer, Supervisor.

Parcels C and D prepared 08/01/2006 by the California State Lands Commission
Boundary Unit



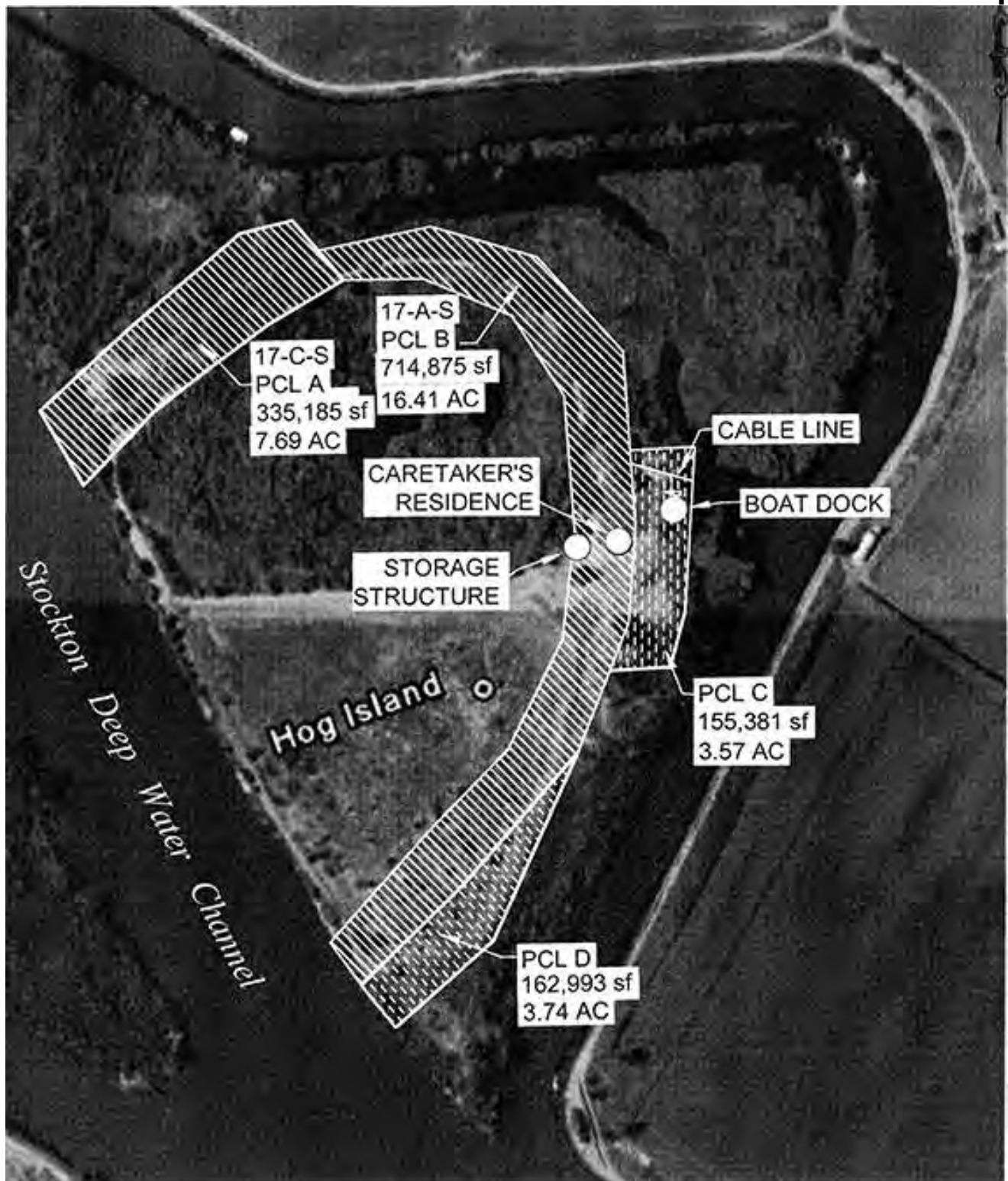


EXHIBIT A

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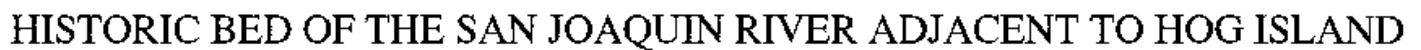
MJJ 2/22/2017

LAND DESCRIPTION PLAT
PRC 2832.1, SCANNAVINO PROPERTIES I
SAN JOAQUIN COUNTY

CALIFORNIA STATE
LANDS COMMISSION



SITE



LOCATION

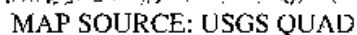


Exhibit B

Map of California showing county boundaries. A black dot in the northern Central Valley is labeled "SITE".

MEU 2/22/2017